

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AUGUSTIN MUGABO,

Plaintiff,

v.

THE WAGNER, JOAN FAMILY and
JIMMY SANDERS,

Defendants.

DECISION AND ORDER
20-CV-1390-A

This case was filed by *pro se* Plaintiff Augustin Mugabo, alleging terrorism by Plaintiff's neighbors in violation of Chapter 113B of Title 18 of the United States Code (providing civil remedies and criminal penalties for acts of international terrorism), was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the performance of pretrial proceedings.

Plaintiff filed what the Court has deemed a motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) (Dkt. No. 16) against Defendants Jimmy Sanders and Joan Wagner.¹

On January 19, 2022, Magistrate Judge McCarthy filed a Report and Recommendation ("R&R") (Dkt. No. 17) recommending that Plaintiff's motion for a default judgment be denied, but that Plaintiff be provided an opportunity to move for leave to file an Amended Complaint.

¹ See Dkt. No. 17 (Report and Recommendation), p. 1 n.2, addressing the discrepancy between the identification of the latter defendant in the caption and identification in the body of the Complaint.

On February 7, 2022, Plaintiff filed objections to the R&R (Dkt. No. 18). Neither defendant has filed response papers (see Dkt. No. 19). The matter was deemed submitted on the papers.

Local Civil Rule 72(b) provides that written objections to an R&R “shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection, and shall be supported by legal authority.” Plaintiff’s objections (Dkt. No. 18) do not adhere to the Local Rule.

To the extent that a party makes a timely and specific objection to a Magistrate Judge’s R&R, the standard of review is *de novo*. 28 U.S.C. § 636(b)(1). However, “it is well-settled that when the objections simply reiterate previous arguments or make only conclusory statements, the Court should review the report for clear error.” *Gusky v. Astrue*, 954 F. Supp. 2d 180, 184 (W.D.N.Y. 2013).

Plaintiff’s objections substantively repeat the same arguments that he previously made before Magistrate Judge McCarthy.

Having reviewed Magistrate Judge McCarthy’s well-reasoned R&R, the Court finds no error, let alone clear error. Even if Plaintiff’s objections to the R&R’s findings were enough to trigger *de novo* review, the result would be the same. Thus, the Court fully adopts the reasoning and conclusion of the R&R, and it is hereby

ORDERED, that for the reasons set forth in the R&R (Dkt. No. 17), Plaintiff’s motion for a default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) (Dkt. No. 16) is hereby DENIED, and it is further

ORDERED that Plaintiff may file a motion for leave to amend his Complaint to remedy the deficiencies identified in the R&R no later than thirty (30) days following the date of this Decision and Order; and it is further

ORDERED that this case is recommitted to Magistrate Judge McCarthy for further proceedings.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 30, 2022